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SUPREME COURT OF THE UNITED STATES.

No. 72.

BANK OF THE UNITED STATES, PLAINTIFF IN ERROR,

VERSUS

WILLIAM S. HATCH.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF OHIO.

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Pleas begun and held at the court-house, in the town of Columbus, on the second Monday of July, being the twelfth day of the same month, in the year of our Lord one thousand eight hundred and thirty, and of the independence of the United States of America the fifty-fifth, before the Honorable John McLean and John W. Campbell, Judges of the circuit court of the United States in and for the seventh circuit and district of Ohio.

THE BANK OF THE UNITED STATES *vs.* WILLIAM S. HATCH.

Be it remembered, that heretofore, to wit, on the twenty-fifth day of October, in the year of our Lord one thousand eight hundred and twenty-three, come the President, Directors, and Company of the Bank of the United States, by D. K. Este, Esquire, and prosecuted and sued forth out of the Clerk's office of said circuit court here, the writ of the United States of scire facias against William S. Hatch, a citizen and resident in the State of Ohio, which is directed to the Marshal of the district of Ohio, in the words and figures following, to wit:

The United States of America, to the Marshal of the district of Ohio, greeting:

Whereas in the term of September, in the year of our Lord one thousand eight hundred and twenty-three, of the circuit court of the United States for the seventh circuit and district of Ohio, aforesaid, the President, Directors and Company of the Bank of the United States recovered a judgment in said court against Elijah Pearson for the sum of seven thousand eight hundred thirty-three dollars and one cent damages, also fifty-four dollars and fifty two cents costs, amounting together to the sum of seven thousand eight hundred eighty-seven dollars fifty three cents, in a plea of trespass on the case, brought into our said court by the President, Directors and Company of the Bank of the United States, against the said Elijah Pearson and William S. Hatch, which was returned by the Marshal of said district not found, as to William S. Hatch: Therefore, we command you to summon and give notice to the said William S. Hatch that he be and appear before the Judges of the circuit court of the United States, at Columbus, on the first Monday in the month of January next, to shew cause, if any thing for himself he hath, or can say, why he should not be made a party defendant to the aforesaid judgment, with the said Elijah Pearson, and execution issue against him accordingly, agreeably to the statute in such case made and provided; and of this writ, together with your proceedings herein, make known to our said court.

Witness the Honorable John Marshall, Chief Justice of the United States, this 25th day of October, 1823.

HARVEY D. EVANS, *Clk.*

And at the term to which said writ is made returnable, to wit, at January term of said court, in the year of our Lord one thousand eight hundred and twenty-four, came the plaintiffs, by their attorney aforesaid; and the Marshal of said district, to whom the writ above recited was in form aforesaid directed, returns the same in court here thus endorsed, to wit:

Served, November 25th, 1823, by reading in presence of Th. Heckewelder and Wright, and by giving a copy of this writ to the defendant.

WM. DOHERTY, *Marshal.*

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And the said defendant appears in court here, by Charles Hammond, Esq., his attorney, and thereupon this cause is continued; and afterwards, to wit, at rules held in the clerk's office of said court, for the months of February, March, April, May and June, this cause was continued; and afterwards, to wit, at the July term of said circuit court, in the year of our Lord one thousand eight hundred and twenty-four, came the parties, by their attorneys aforesaid; whereupon the said defendant, by his said attorney, pleads in court here to the writ aforesaid, in the words and of the tenor following, to wit:

Bank U. States vs. William S. Hatch.

And the said William S. Hatch, by C. Hammond, his attorney, comes and defends the wrong and injury, when, &c., and says, that the plaintiffs ought not to recover judgment against him upon the said writ of scire facias so as to make him party to the original judgment in said writ specified to have been rendered against Elijah Pearson, because he says he did not undertake and promise in manner and form as is in the said original declaration alleged, and of this he puts himself upon the country, and the plaintiffs do the like.

C. HAMMOND, *attorney for deft.*
D. K. ESTE, *attorney for pltffs.*

And thereupon this cause is continued by consent; and afterwards, to wit, at rules held at the office of the clerk of said court for the months August, September, October, November and December, this cause was continued; and afterwards, to wit, at the January term of said court, in the year of our Lord one thousand eight hundred and twenty-five, came the parties by their attorneys aforesaid; and thereupon this cause is continued. And afterwards, at rules held at the clerk's office of said court for the months of February, March, April, and May, this cause was continued. And afterwards, to wit, at the June term of said circuit court, in the year last aforesaid, came again the parties by their said attorneys; and thereupon this cause is further continued. And afterwards, to wit, at rules held at the clerk's office of said court, for the months of July, August, September, October, November, and December, this cause was continued. And afterwards, to wit, at the January term of said court, in the year of our Lord one thousand eight hundred and twenty-six, this cause was further continued. And afterwards, to wit, at rules held at the clerk's office of said court for the months of February, March, April, May, and June, this cause was continued. And afterwards, to wit, at the July term of said court, in the year last aforesaid, came the parties, by their attorneys aforesaid, and thereupon, on motion of the defendant, by his said attorney, and for reasons appearing to the court, leave is granted him to file another plea, and, on like motion, this cause is contiuued; the cost of this term to be paid by the defendant. And afterwards, to wit, at rules held at the clerk's office of said court, this cause was continued. And afterwards, to wit, at the December term of said court, in the year last aforesaid, this cause was continued. And afterwards, to wit, at rules held at the office of the clerk of said court for the months of January, February, March, April, May, and June, this cause was continued. And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and twenty-seven, came the parties, by their said attorneys, and thereupon the defendant, by his said attorney, files his additional plea in the premises, in the words and tenor following, to wit:

President, Directors and Company Bank U. States vs. William S. Hatch.

ADDITIONAL PLEA.

And the said William S. Hatch, by the leave of the court for that purpose had and obtained, for further plea in this behalf, defends the wrong and injury, when, &c., and says that the said promise in the declaration in the original cause supposed, arose upon the endorsement of the said William S. Hatch of a bill of exchange drawn by Elijah Pearson upon Thomas Graham, and by the said Thomas Graham accepted, and afterwards discounted by the said plaintiff, and after the making of the said supposed promise, and after the commencement of this suit, to wit, on the 14th day of March, 1826, at Cincinnati aforesaid, in consideration that the said Thomas Graham had transferred and agreed to transfer a large amount of real estate to the said plaintiff, in payment and satisfaction of the debts and liabilities of the said Thomas Graham to the said plaintiff, including the debt due upon the bill of exchange aforesaid, the said plaintiffs agreed with said Thomas Graham that they would accept and receive the real estate so conveyed in satisfaction of the said debt due from the said Thomas Graham, and did then and there accept and receive the same in satisfaction of said debt, and this the said William S. Hatch is ready to verify; wherefore he prays judgment if the said plaintiff ought further to have or maintain against him, &c.

C. HAMMOND, *Atty. for deft.*

And thereupon this cause is further continued. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the months of August, September, October, and November, this cause was continued. And afterwards, to wit, at the December term of said court, in the same year last aforesaid, came the parties, by their said attorneys; whereupon, the said plaintiffs, by D. J. Caswell, their attorney, file in court here their replication to the plea of the said defendant, by him lastly above pleaded, in the words and of the tenor following, to wit:

The President, Directors and Company of the Bank of the United States vs. William S. Hatch.

And the said plaintiffs, as to the plea of the defendant by him lastly above pleaded of accord and satisfaction, in bar of the further maintenance of the said action of the plaintiffs, say that, by any thing in the said plea alleged, they ought not to be barred from further having and maintaining their action aforesaid, because, protesting that the said Thomas Graham did not transfer to the plaintiffs the real estate in the said plea mentioned, for replication to the said plea, they say, that they, the said plaintiffs, did not accept and receive the said real estate in satisfaction of the money due the said plaintiffs upon the bill of exchange named in the plea, and the money claimed in plaintiffs' declaration, and of this they put themselves upon the country; and the defendant doth the like, &c.

D. J. CASWELL, *Atty. for pltffs.*

And thereupon this cause is continued. And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and twenty-eight, came the parties, by their attorneys aforesaid, and on motion of the defendant, leave is given him to withdraw his second or additional plea, filed by leave of the court at the July term last; and thereupon,

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for trying the issue joined, came a jury, to wit: Pearson Spinning, William S. Sullivant, John L. Starling, Elias Murray, Jesse Cowin, William P. Strader, Levi Cox, Samuel Dunlap, Anthony Walk, James H. Patterson, Zachariah Mills, and Philo H. Olmstead, who were elected, tried, and sworn the truth to speak on the issue joined, who thereupon returned their verdict as follows, to wit: We, the jury, find that the defendant did assume and promise in manner and form as the plaintiffs against him have declared. And thereupon the defendant, by his attorney, gave notice that he would, so soon as he could be heard, move the court for a new trial, and filed his reasons accordingly, in these words, to wit:

Bank United States vs. William S. Hatch.

The defendant moves the court to set aside the verdict of the jury, and grant a new trial, for the following reasons. 1. The defendant was taken by surprise by the rejection of the deposition of J. M. Ferry, no written exceptions to receiving said deposition having been filed by the plaintiffs' counsel. 2. The court erred in rejecting the said deposition of J. M. Ferry. 3. The court erred in rejecting the contract between the plaintiffs and the Messrs. Grahams, offered in evidence by the defendant.

C. HAMMOND, } *for deft.*
J. S. BENHAM, }

Whereupon, on motion of the defendant, by his attorney, C. Hammond, and for the reasons above assigned, it is ordered by the court here, that the motion for a new trial in this cause be continued until the next term of this court. And thereupon this cause is further continued. And afterwards, to wit, at the December term of said court, in the year last aforesaid, came the parties, by their attorneys aforesaid. Whereupon the motion for a new trial made herein at the last term, was this day fully argued by counsel, and the court, upon consideration thereof, do order and award a new trial of this cause upon the defendant's paying the costs of the trial at the last term. And thereupon this cause is further continued. And afterwards, to wit, at the July term of said court, in the year of our Lord one thousand eight hundred and twenty-nine, came the parties, by their attorneys; whereupon came a jury, to wit, Thomas Gallespie, William A. Camson, Benjamin Briggs, William Perrine, Daniel Black, Samuel McCord, John Thompson, William McCausland, James Turnbull, William Arnold, Rezin Bell, and Nathan Kelly, who were elected, tried, and sworn the truth to speak upon the issue joined, returned their verdict in these words, to wit: We, the jury, find that the defendant did not assume and promise in manner and form as the plaintiffs in their declaration have alleged against him. It is therefore considered by the court, that the defendant go thereof without day, and recover of the plaintiffs his costs about his defence herein expended. And the said plaintiffs, by their attorney, gave notice that so soon as they can be heard, they will move the court for a new trial herein; and thereupon, in pursuance of the notice heretofore given, the plaintiffs, by their counsel, moved the court for a new trial herein, and upon consideration whereof, the verdict and judgment rendered herein at this term are set aside, and a new trial granted to the plaintiffs, upon the payment of the costs of this term. And said plaintiffs, by Charles Fox, Esq., their attorney, file in court here their notice to the defendant, in the words and of the tenor following, to wit:

The President, Directors and Company of the Bank of the United States vs. William S. Hatch.

Scire facias to make defendant party to a judgment pending in the 7th circuit court of the United States, district of Ohio. The defendant and his counsel will take notice, that the plaintiffs, on the trial of this cause, will object to the defendant's reading the deposition of John M. Ferry, taken by the defendant on the 8th day of June, 1824, for the following reasons, viz: Because said deposition purports to have been taken before J. M. Houston, master commissioner in chancery for the county of Warren and State of Ohio, who had no power to take said deposition. 2nd. Because it does not appear that said deposition is reduced to writing by said J. M. Houston, or by the said J. M. Ferry. 3d. Because it does not appear said witness was sworn to tell the truth, and the whole truth, between the parties.

CHAS. FOX, *Atty. for plffs.*

And this cause is thereupon further continued. And afterwards, to wit, at the December term of said court, in the year last aforesaid, came the parties, by their said attorneys; and thereupon, for trying the issue joined, came a jury, to wit: William B. Van Hook, David Todd, John Larwell, Randall Stiver, Isaac N. Norton, A. R. Chase, Truman Beecher, J. R. Geddings, William Rayne, William A. Needham, Ira Paige, and William A. Johnson, who being empannelled, elected, tried, sworn and affirmed to try the issue between the parties, upon their oath do say, that E. Pearson made the bill of exchange, a copy of which is attached to the declaration of the said plaintiffs in the original suit against said Pearson, the drawer of said bill, and that the said bill was regularly endorsed by the present defendant Hatch. They also find, that on the twenty-fifth day of July, in the year 1820, said bill of exchange was duly protested for non-payment, and that on said day last mentioned, and on the succeeding day, the said defendant Hatch was boarding at the house of Henry Bainbridge, in the city of Cincinnati; that on the 26th day of July, in the year 1820, the notary public by whom said bill was protested called at the house of said Bainbridge and inquired for said Hatch, and was informed by a Mr. Young that said Hatch was not within; the said notary then left a written notice of said protest with said Young, who was at that time in the house aforesaid, and requested him to deliver said notice to said Hatch; and that in the summer of said year 1820, said Young was a boarder at said house. They also find, that a suit was commenced against said Pearson, the drawer on said bill of exchange, which suit stood for trial at the September term in the year 1822, of the circuit court of the United States for the district of Ohio. They also find that previous to the year 1822, one Griffin Yeatman was confined on the jail limits of Hamilton county in said State, on a "ca. sa.," issued at the instance of and on a judgment in favor of said Pearson. That said Yeatman was a material witness for the plaintiff in a number of suits then pending in said court; that one George W. Jones, who was the then agent for plaintiffs, and one William M. Worthington, the then attorney for the plaintiffs, agreed with the said Pearson, that in consideration he, the said Pearson, would permit the said Yeatman to leave the said jail limits, and attend said court during the term aforesaid, then the suit then pending in said court against said Pearson, on said bill of exchange, should be continued without judgment until the term of said court next ensuing, said September term, A. D. 1822. That, in pursuance of this agreement, the said Pearson permitted

the said Yeatman to leave said jail limits, and attend said court; and that said suit against said Pearson was continued agreeably to said agreement. Now therefore, if upon this finding, the court shall be of opinion that the plaintiff is entitled to judgment, then the jury find for the plaintiff to recover of the defendant the amount of said bill, together with the interest thereon; but if the court shall be of opinion upon the said finding, that the defendant is entitled to a judgment, then and in that case the jury find for the defendant. During the progress of this cause, the defendant by his counsel, tendered a bill of exceptions to the opinion of the court, upon the points in said bill of exceptions mentioned, and prayed that the same might be signed, sealed, and enrolled, and made a part of the record in this cause, which is accordingly done, in the words and of the tenor following, to wit:

Bank U. States vs. William S. Hatch.

At the trial of this case, the defendant offered to give in evidence to the jury a certain contract, in the words and figures following, to wit:

We, the President, Directors and Company of the Bank of the United States, by George W. Jones, our agent and attorney in fact, having come to a partial understanding with Messrs. Thomas and Ezekiel Graham, relative to claims on them held by us at our agency office in Cincinnati, State of Ohio, first reserving to ourselves all proceedings at law and equity in the most full and ample manner as we could had this partial agreement never taken place, and especially excepting that this arrangement is not to be held or construed as releasing Messrs. Graham, or any of the other parties embraced in any judgment, bill, or bills in chancery, or any note or notes, bill or bills of exchange, which we hold or have pending in any court or place, from their liabilities, but that we are to prosecute our claims upon persons and property in as full and effectual a manner as though this agreement had never been entered into; with those exceptions, we, for ourselves, our successors and assigns, agree to discontinue a suit or suits we have pending in the State of Tennessee against the said Ezekiel Graham, and that we will not issue, or assign so as to have issued, any capias ad respondendum, or capias ad satisfaciendum, against either the said Thomas or Ezekiel Graham, upon any claim or demand whatever, now held by us at our agency office aforesaid, whereby they shall be detained or held to bail; and we further agree we will not prosecute for or set up claim to those certain lots and parts of lots of land, and parcels of land, which the present wife of Thomas Graham holds in her own right, or in which said Thomas has or has had a life interest, in right of his present wife, especially those lots situate between Congress, Symmes, and Lawrence and Pike streets, in Cincinnati, and any other lots which have been sold by said Thomas and his wife, as administrators of the late Daniel Symmes; but for those lots and lands, and the proceeds in the hands of Oliver M. Spencer, Thomas Longworth, and Peyton S. Symmes, we hereby release all claims and demand for, or on account of the several claims held by us as aforesaid; and for any property or estate owned by Thomas and Ezekiel Graham, at the filing of our said bill, not embraced in any transfer executed by them, or either of them, of even or prior date to this article, and for any property or estate they may hereafter acquire by their future industry and business, we agree to release all claims or demands for or on account of our claims so held as aforesaid, with the exception that this article is not to be construed as enabling said Thomas and Ezekiel to hold and receive, *and hold,* any property or estate from the other

defendants, parties in our bill aforesaid, to which we may, by virtue of said bill, and the demands therein set forth, have right and claim; and further provided said Thomas and Ezekiel Graham are not to interfere to our injury and the benefit of other parties interested in our said bill, but are in good faith to leave us all the benefit and advantages to which we are entitled; and we further agree that a judgment, the United States of America *vs.* Elijah Pearson, A. St. Clair Miller, and Thomas Graham, shall not by us, or by any assignee of said judgment, be used to affect the title of any real estate which was formerly Thomas Graham's, except it be those parts of in lot No. 57, in the city of Cincinnati, not heretofore conveyed by Thomas Graham to James S. Duvall, unless it be with the consent of said Thomas Graham; and that in the final termination of the bill or bills in chancery, pending in our favor against the said Thomas and Ezekiel Graham and others, and exhausting or settling our several judgments and claims, wherein the said Thomas and Ezekiel are embraced as parties, reserving our right of claim without prejudice against all persons parties thereto, to be prosecuted to a final issue, so that they shall not be hereby released. We agree, in consideration of the premises aforesaid, after the termination of all proceedings at law and in equity as aforesaid, to execute good and sufficient releases in law, whereby said Thomas and Ezekiel Graham, their heirs, executors, and assigns, shall be fully discharged from all their existing liabilities to us, at our agency office in the city of Cincinnati, held and accrued prior to the date of this article, whosoever or wheresoever they shall appear, upon any and all judgments, notes, bonds, bills of exchange, or other liabilities whatsoever, not interfering with our claims on, or the rights of others in and on account of any of said obligations, excepting also covenants in deeds for real estate, and the engagements of said Thomas and Ezekiel Graham, in their several releases and assignments of even date herewith, and of former conveyances not connected with this arrangement, in all which their liabilities is unconditionally to remain.

Cincinnati, March 14th, 1826. For the President, Directors and Company of the Bank of the United States.

GEO. W. JONES, *Agent and Atty. in fact.*

Together with evidence to show, that the transaction in said contract specified operated as a payment by Thomas Graham, the acceptor of the bill of exchange to the Bank of the United States, at a time subsequent to the date of said contract; to the admission of which the plaintiffs, by their counsel, objected, which objection was sustained by the court, and the said evidence rejected; to which opinion of the court rejecting said evidence the defendant asked leave to except, which was allowed, and his said exception is accordingly sealed and ordered to be made part of the record.

J. W. CAMPBELL, [SEAL.]

And thereupon this cause is further continued; and now at this term, to wit, at July term of said circuit court, in the year of our Lord one thousand eight hundred and thirty, come again into said court here the parties, by their attorneys aforesaid. Whereupon this cause coming on to be heard upon the law arising on the special finding of the jury in this cause, and the parties being heard by counsel, the court, on mature deliberation being thereupon had, are of opinion that the law is with the defendant; therefore it is considered by the court, that the said plaintiffs take nothing by their said plea, but be in mercy for their false clamor, and that the said defendant re-

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cover of the said plaintiffs his costs and charges by him about his defence in this behalf expended. Thereupon the plaintiffs filed a certain bond, with security, conditioned for the prosecution to effect of a writ of error to the Supreme Court of the United States, and for the payment of all costs, &c. and the court having seen said bond, are satisfied the same is sufficient, it is ordered that a writ of error be allowed, and that a citation issue upon the application of the plaintiffs.

The following is an exhibition of the evidence or depositions filed in the aforegoing cause, to wit:

No. 1.

President, Directors and Company Bank United States vs. William S. Hatch. Upon scire facias to make said Hatch party to a judgment vs. Elijah Pearson, obtained in the United States' circuit court, Ohio district, September term, 1823.

The plaintiffs will please to take notice that I shall attend at the master commissioner in chancery for Warren county, Ohio, in Lebanon, in said county, on Tuesday next, the 8th instant, between the hours of eight in the morning and six in the evening of the same day, to take the deposition of John M. Ferry, to be read in evidence on trial of this cause.

June 4th, 1824.

W. S. HATCH.

I acknowledge service of the above.

GEO. W. JONES, *Agent office B. U. S.*

CINCINNATI, *June 4th,* 1824.

President, Directors and Company Bank United States vs. William S. Hatch. Upon a scire facias to make said Hatch party to a judgment against Elijah Pearson, obtained in the United States' circuit court, Ohio district, September term, 1823.

The deposition of John M. Ferry, taken before me, the undersigned, master commissioner in chancery for the county of Warren, in the State of Ohio, at my office in Lebanon, in said county, on Tuesday, the 8th day of June, 1824, between the hours of eight o'clock in the morning, and six o'clock P. M. of the same day, to be used in evidence on the part of the defendant in the above stated cause, pursuant to the enclosed notice. The said John M. Ferry, being first sworn according to law, deposeth and saith, that about the middle of September 1822, or earlier, Wm. M. Worthington, attorney for the Bank of the United States, addressed a letter to E. Pearson, at Milford, in Clermont county, in whose employ I then was, and had been for several years before, soliciting him to release Griffin Yeatman, Esq., from the jail bounds of Hamilton county, where he was confined on an execution against him by E. Pearson, proposing to said Pearson, if he would do so, in order to enable the Bank to have Mr. Yeatman at court, as it was then too late to give notice to take his depositions in numerous cases where they were parties before the court set, that all the suits of the Bank of the United States against said Pearson should be continued, and that they would not enter up judgment against him, the said Pearson, who then resided at Milford. Pearson then wrote a letter to Wm. M. Worthington, attorney for the Bank aforesaid, agreeing to the proposals

made by the Bank for the release of Mr. Yeatman, provided that, in addition to giving said Pearson further time as they had offered to do, they would further agree never to issue a ca. sa. or any process to imprison the body of said Pearson, unless they should find him guilty of some fraudulent concealment of property. Mr. Pearson being engaged, sent this deponent to Cincinnati, with his letter, which was dated about the 14th of September, 1822, to William M. Worthington, attorney for the Bank as aforesaid, open, and also gave me an order for the release of Mr. Yeatman, with directions to deliver the letter to William M Worthington, and if he agreed to what it contained, as above stated, then to deliver him the order for the release of Mr. Yeatman. On reading the letter, Mr. Worthington said he would shew it to Mr. Jones, the agent for said Bank, and requested this deponent to call again for an answer, in a short time. I did so, and Mr. Worthington agreeing to the contents of the letter, I gave him, as directed by Pearson, the order for Mr. Yeatman's release I understood that Mr Yeatman started with Mr. Worthington and Mr. Jones to Columbus, as witness for the Bank. I also understood and believed, that in consequence of this agreement, no judgments were for a considerable time entered against said Pearson by the Bank; one of the suits then pending in the circuit court of the United States for the district of Ohio, in favor of the Bank against said Pearson, was on a draft or bill of exchange drawn by E. Pearson on Thomas Graham for six thousand six hundred dollars, bearing date about the 23d of May, 1820, and accepted by said Graham, and endorsed by William S. Hatch, the defendant; and further he saith not.

J. M. FERRY.

Sworn to and subscribed before me, this 8th day of June, 1824.

J. M. HOUSTON,

M. C. in C. for the county of Warren and State of Ohio.

THE STATE OF OHIO, WARREN COUNTY, ss.

I, Jonathan K. Wilds, clerk of the court of common pleas within and for the county aforesaid, do certify, that John M. Houston, Esquire, who appears to have taken and signed the aforegoing deposition of John M. Ferry, was at the time of taking and signing the same, and still is, master commissioner in chancery of the courts in the county of Warren and State aforesaid, duly appointed and sworn into office agreeably to the statute of the State of Ohio, and to whose official acts as such, full faith and credit are and of right ought to be given, as well in courts of record as thereout.

In testimony whereof, I have hereunto set my hand and affixed the seal of the court aforesaid, at Lebanon, this 9th day of June, A. D. 1824.

J. K. WILDS, *Clerk.* [L. S.]

No. 2.

UNITED STATES' CIRCUIT COURT, 7TH CIRCUIT, OHIO DISTRICT.

The President, Directors and Company of the Bank of the United States vs. William S. Hatch. On sci. fa. to make defendant party to a judgment against Elijah Pearson.

The defendant is hereby notified that the plaintiffs will proceed, on the 28th instant, between the hours of twelve o'clock and three o'clock P. M., to take the deposition of Griffin Yeatman, of the city of Cincinnati, before

870.

Isaac G. Burnett, Esqr., mayor of the said city, at his office, to be read in evidence on the trial of the above cause.

CINCINNATI, *December 27th*, 1824.

D. K. ESTE, *Atty. for plffs.*

December 27, 1824. I have served a copy of the above notice on William S. Hatch.

THOMAS HICKEWELDER.

UNITED STATES' CIRCUIT COURT, SEVENTH CIRCUIT AND DISTRICT OF OHIO.

The President, Directors and Company of the Bank of the United States vs. William S Hatch. On sci. fa. to make defendant party to a judgment against Elijah Pearson.

Griffin Yeatman, a witness produced and sworn on the part of the plaintiffs, deposeth and saith, that at the time of the protest and notice herein after mentioned, he was and now is a notary public for the city of Cincinnati, duly commissioned; and that on the twenty-fifth day of July, eighteen hundred and twenty, a draft or bill of exchange, of which the following is a true copy, was left with deponent for protest by the agent of the plaintiffs; said bill reads in the words and figures following, to wit:

$6,600. CINCINNATI, 23*d May*, 1820.

Sixty days after date hereof, pay to the order of William S. Hatch, at the office of discount and deposite of the Bank of the United States at Cincinnati, six thousand six hundred dollars, which charge to account of,

Yours respectfully,

E. PEARSON.

MR. THOMAS GRAHAM, *Cincinnati Ohio.*

Endorsed, "W. S. Hatch." "Accepted, Thomas Graham."

Defendant further says, that on the same twenty-fifth day of July, eighteen hundred and twenty, the said bill was by me duly protested for non payment, and that, on the twenty-sixth day of July, eighteen hundred and twenty, deponent called at the boarding house of Mr. Benbridge, in Cincinnati, where William S. Hatch boarded at the time, and on inquiring for Mr. Hatch, was informed by a Mr. Young that he was not then at home, but had stepped out; *(said Young, on being informed by deponent that he had a communication for Mr. Hatch, observed that he was Mr. Hatch's room mate, and that he would deliver it to him.)* Whereupon deponent handed to said Young a written notice of the aforesaid protest, with a request that he would deliver it to Mr. Hatch, to whom it was delivered.

Rejected.

GRIFFIN YEATMAN.

THE STATE OF OHIO, *city of Cincinnati*, ss.

I, Isaac G. Burnet, mayor of the city of Cincinnati aforesaid, not being attorney or of counsel for either of the parties in the foregoing suit, nor in any way interested in the event of the same, do hereby certify, that the foregoing deposition of Griffin Yeatman, was taken before me, at my office in said city, on the twenty-eighth day of December, eighteen hundred and

twenty-four, between the hours of twelve o'clock and three o'clock P. M., in pursuance of the enclosed notice, at the instance of the plaintiffs; that the said deposition was reduced to writing by *me* at the said time and place, and it was also subscribed by the said deponent in my presence, the same deponent having been first by me duly sworn according to law, and carefully examined, and cautioned to testify the whole truth relative to the matters in controversy in said suit, and that the reason for taking said deposition was, that the residence of said deponent, at the city of Cincinnati aforesaid, is at a greater distance from Columbus, the place of trial, than one hundred miles.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said city, this twenty-eighth day of December, eighteen hundred and twenty-four.

ISAAC G. BURNET, *Mayor.*

No. 3.

Bank United States vs. William S. Hatch. Sci. fa. In the circuit court of the United States of the Ohio district.

You will take notice that the deposition of Elijah Pearson will be taken to be read in evidence on the trial of this cause, June 3d, 1825, between the hours of ten and twelve in the morning, at the office of Beza E. Bliss, Esq., Cincinnati.

C. HAMMOND, *Atty. for deft.*
D. K. ESTE, Esqr., *Atty for plffs.*

Know all men by these presents, that I, William S. Hatch, have and by these presents do release to Elijah Pearson, all actions, and causes of action, that may accrue to me in consequence of my liability as endorser upon the bill of exchange drawn by said Pearson upon Thomas Graham, in my favor, and by me endorsed, and upon which suit is now pending against me, as endorser, by the President, Directors and Company of the Bank of the United States, in the circuit court of the United States for the Ohio district.

In witness whereof, I have hereunto set my hand and seal, this 3d day of June, anno Domini 1825.

W. S. HATCH, [SEAL.]

Witness,
C. HAMMOND.

CIRCUIT COURT OF THE UNITED STATES, DISTRICT OF OHIO.

The President, Directors and Company of the Bank of the United States vs. William S. Hatch. Sci. fa.

The deposition of Elijah Pearson, of the city of Cincinnati, taken before B. E. Bliss, a justice of the peace in and for the county of Hamilton, at his office in said city, on the third day of June, A. D. 1825, between the hours of ten and twelve o'clock in the forenoon of that day, to be read in evidence on the trial of the above cause, pursuant to the notice hereto annexed.

STATE OF OHIO, HAMILTON COUNTY, ss.

Elijah Pearson, of the city of Cincinnati, being of lawful age and duly sworn, doth depose and say, that in the fall or early part of the winter of the

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year of our Lord one thousand eight hundred and twenty-one, as deponent believes, Griffin Yeatman, of the city aforesaid, was a prisoner confined within the liberties of the jail of the county of Hamilton, at the suit of Elijah Pearson and company; that deponent, (then residing in the county of Clermont, in the State of Ohio,) a few days before the commencement of the then approaching term of the circuit court of the United States for the district of Ohio, held at Columbus, in the month of January, A. D. 1822, received a letter from W. M. Worthington, Esq., attorney for the Bank of the United States in Ohio aforesaid, informing this deponent that he, the said Worthington, not knowing that said Yeatman was in confinement as aforesaid, had omitted to give notice of taking said Yeatman's depositions, to be read in evidence on the trial of several causes then pending in said court, at January term thereof, on the part of the plaintiff in the above entitled cause; that said Worthington, as attorney as aforesaid, in his letter to this deponent, proposed that if deponent would release said Yeatman from the said imprisonment in the liberties aforesaid, that he, the said Yeatman, should not be used as a witness in said court, at said term thereof, in any of the suits then pending in said court wherein the plaintiff in this cause was also plaintiff against this deponent, but that such suits so pending against this deponent should be continued; that this deponent wrote and sent by John M. Ferry, an open answer to said letter, to said Worthington, stating to said Worthington, that if he, as attorney for the said plaintiff, would, in addition to the stipulation and condition contained in his said letter, and above stated, further stipulate on behalf of the plaintiff, the said the President, Directors and Company of the Bank of the United States, that no ca. sa. should ever issue against this deponent, in any of the suits wherein said plaintiff might recover judgment against him, unless they should be satisfied that he, this deponent, was concealing or fraudulently conveying away his property to avoid payment, that then this deponent would release said Yeatman from his imprisonment as aforesaid; and, at the same time, deponent gave the said Ferry a written order to the jailor or sheriff of Hamilton county aforesaid, to release the said Yeatman, which was to be delivered to said jailor or sheriff for that purpose, if the said Worthington, on behalf of said plaintiff, should make the additional stipulation and agreement as above stated. And this deponent further saith, that he was afterwards informed, and verily believes, that the said additional stipulation, as required in deponent's said answer to Worthington's said letter, was made on the part and behalf of said plaintiff, and that said Yeatman was thereupon released from his said imprisonment, and went to Columbus, and attended the said January term as a witness on the part of the said plaintiff; that the said causes, so pending in said court against this deponent, at the suit of the said plaintiff, were continued according to said stipulation and agreement; that one of said causes was in favor of the said the President, Directors and Company of the Bank of the United States against this deponent, on a bill of exchange drawn for the payment of $6,600 (six thousand six hundred dollars,) or thereabout, on which the defendant in the above entitled cause was endorser, which cause was not called on for trial at said January term of said court, but was continued, as deponent verily believes. This deponent, further testifying, saith, that the letter from the said W. M. Worthington to this deponent, herein before referred to, has been sought for by deponent, but cannot be found by him; that it is mislaid or destroyed; nor has deponent any knowledge where it is, if it is in existence; that deponent did not keep a copy of his answer

to said letter, nor has he, since the writing thereof, had, nor has he now, a copy thereof; nor does he know where the original is, nor the contents thereof, further than he has herein before testified.

E. PEARSON.

Sworn and subscribed this 3d day of June, A. D. 1825, before me.

B E. BLISS,
Justice of the Peace.

No. 4.

THE PRESIDENT, DIRECTORS, AND COMPANY OF THE BANK OF THE UNITED STATES *vs.* WILLIAM S. HATCH. } *United States circuit court, seventh circuit and district of Ohio. Assumpsit.*

Thomas T. Benbridge, a witness produced and sworn on the part of the plaintiffs, deposes and says, that in the summer of the year eighteen hundred and twenty, William S. Hatch and Emanuel Young boarded at the house of my father, Henry Benbridge, in the city of Cincinnati, and that they were both boarders there at the same period of time; and further deponent saith not.

THOS. T. BENBRIDGE.

THE STATE OF OHIO, CITY OF CINCINNATI, ss.

I, Isaac G. Burnet, mayor of the city of Cincinnati aforesaid, not being attorney or of counsel to either of the parties in the foregoing suit, nor in any way interested in the event of the same, do hereby certify that the foregoing deposition of Thomas T. Benbridge was taken before me, at the mayor's office in said city, on the third day of July, eighteen hundred and twenty-seven, by consent of parties, without notice; counsel for both parties being present; taken at the instance of the plaintiff; that said deposition was reduced to writing by me at said time and place, and so also subscribed by them, the said deponent, respectively, in my presence, the same deponent being first by me duly sworn, according to law, and carefully examined and cautioned to testify the whole truth relative to the matters in controversy in said suit; and that the reason for taking said deposition was, that the residence of the deponent, at said city, is more than one hundred miles from Columbus, in the State of Ohio, the place of trial.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said city, this third day of July, eighteen hundred and twenty-seven.

[L. S.] ISAAC G. BURNET, *Mayor.*

No. 5.

THE PRESIDENT, DIRECTORS, AND COMPANY OF THE BANK OF THE UNITED STATES, *vs.* WILLIAM S. HATCH. } *United States circuit court, 7th circuit, district of Ohio.*

Deposition of Henry Avery, taken before Isaac G. Burnet, mayor of the city of Cincinnati, on the 20th December, 1827, by consent of parties, without notice.

Henry Avery, of lawful age, being duly sworn, deposeth and saith, that about the first of March, 1826, this deponent, upon a request, (made, as he understood, by desire of Messrs. Grahams, or some one of them,) called at what he understood was Messrs. Grahams' counting house, in the city of Cincinnati, and had an interview with Messrs. Thomas, Ezekiel, and James

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Graham, upon the subject of their difficulties with the Bank of the United States, at the agency office in the city of Cincinnati, State of Ohio; that Messrs. Grahams not appearing to be prepared to make any proposition, deponent stated to Messrs. Grahams that he understood the bank made it a rule, generally, if a debtor was able to pay, to require payment in full; if not able to pay, that a full disclosure should be made of the debtor's affairs; and that the debtor should do the best in his power to pay and secure the bank the debts due to the bank, and on such terms the bank was always disposed to settle and arrange with those persons who were unable to pay in full. At this meeting no definite measures were gone into, Mr. Thomas Graham stating, he wished to have time and consult with counsel, to which deponent assented, and the meeting was postponed to another day. At a subsequent meeting, Mr. Thomas Graham declined making a full disclosure with a view of effecting a general arrangement; deponent then suggested, that if it were desirable, it was probable some partial arrangement might be made, whereby certain points could be arranged, leaving all which was not arranged to its fate, whatever it might be. To this suggestion, Mr. Thomas Graham, who, at the outset, was nearly the exclusive speaker, and throughout a principal agent, replied, with much animation and apparent satisfaction, that was what they wanted, or, that would suit, or words to that effect. This deponent then became the medium of a negociation between the Bank of the United States, by George W. Jones, their agent, on the one part, and the Messrs. Grahams on the other part; the results of which, after several different meetings, was an agreement for a full release in effect to Mr. James Graham, where he was liable to the bank on any notes, bills, or bonds, at their agency office aforesaid; and an agreement to arrange some few points in full, and some to a partial extent, where the bank was in collision with Messrs. Thomas Graham and Ezekiel Graham. Deponent testifies, that he stated in the outset to Messrs. Grahams, that no release could or would be executed by the bank at that time, or at any time, until the bank should have exhausted all their (the bank's) recourse upon persons or property liable under those claims held by the bank, in which claims the Messrs. Thomas Graham and Ezekiel Graham were parties, liable or involved, to which the Messrs. Grahams assented. Deponent testifies, that he made the proposition explicitly to the Messrs. Grahams, to say, whether or not they would agree to an arrangement which would leave the bank to go on unrestricted, and enforce the collection of all their demands due at the agency office aforesaid, in which the Messrs. Grahams, or any of them, were parties involved, off of any, and all other parties liable thereon, to which the reply was prompt, clear, and express, in substance, that they were perfectly willing, or they had no objection. Deponent testifies, that Mr. Thomas Graham represented himself to deponent as having no valuable available title undisposed of in real estate, except about 100 acres of land of small value in Preble county, State of Ohio. That he, said Thomas Graham, contemplated, and was ready, or nearly ready prepared, to take the benefit of the insolvent law, and would take the benefit of the insolvent law, unless the bank made some arrangement with him; and that on his own account he cared but little about the matter, representing, in substance, as deponent understood him, that he was so situated that it was a matter of little consequence to him, the said Thomas Graham, in any respect. Deponent further testifies, that the business not admitting of delay, it was proposed and agreed upon, that Messrs. Thomas Graham and Ezekiel Graham should quit claim, by deed, all the real estate

to which they or either of them had ever held title in the State of Ohio, except a small tract of land in Clinton county, stated to be of small value, in order that if Messrs. Grahams held any title, it might in that manner be passed, and the bank vested with the rights, whatever they might prove to be. Deponent further testifies, that the quit claims were executed and delivered, upon a nominal consideration, and that, with the exception of the 100 acre tract in Preble county aforesaid, all the estate embraced in those releases is adversely held or contested by other persons, creditors of said Grahams, and otherwise; that the bank has already made large advances, and will have to make further advances before a title to be relied upon can be obtained to the parcels of real estate quit claimed as aforesaid; and that to a large part of said real estate, the bank will never be able to obtain any title under said quit claims, all the title of said Grahams having long before been conveyed away. Deponent further testifies, that in his judgment, information, and belief, all which the bank has or will realize under the said arrangement of March, 1826, and those quit claim deeds, is far short of the debts due the bank from Thomas Graham and Ezekiel Graham, in their own proper behalf, excluding all endorsements and acceptances. Deponent expressly testifies, the bank of the United States did not agree to accept, and did not intend to accept, whatever property or effects were by said bank acquired under the partial agreement and quit claims aforesaid, of March, 1826, in full satisfaction of Thomas Graham and Ezekiel Graham's liabilities to them, at their agency office aforesaid; and that it was so explained and understood by the Messrs. Graham's, at the time of the partial agreement aforesaid. Deponent testifies, the bank did not accept, or agree to accept, or intend to accept, any part of the property by the bank acquired under those transfers aforesaid, upon the debts of Elijah Pearson, or upon the bill for 6,600 dollars, drawn by Elijah Pearson upon Thomas Graham, accepted by Thomas Graham, and endorsed by William S. Hatch, or to release any part thereof. On the contrary, this deponent testifies, the bank intended to hold the said claim unprejudiced, and to enforce the payment thereof upon said William S. Hatch; and that this fact was mutually well understood at the time of said arrangements and releases being made. Deponent further testifies, that much difficulty was encountered in agreeing upon the terms of an article, which was finally executed by the bank to Messrs. Thomas and Ezekiel Graham, in which article the objects and conditions of the concessions made by the bank to Messrs. Grahams were set forth. The bank designedly and agreeable to the arrangement, refusing to execute a release, or any article which could be set up by the Messrs. Grahams, or any other parties concerned, as a release, or concealment, or discharge of the bank claims, wherein Messrs. Thomas or Ezekiel Graham were parties liable. That Messrs. Grahams, as deponent was informed, and truly believes, resorted to counsel for advice; which counsel prepared amendments to have inserted in the article then prepared to be executed by the bank to Messrs. Graham's; which amendments were all rejected by the bank agent, on the ground they would vary the article and give the article a bearing and effect not agreed for or intended to be given by the bank; that N. Longworth, Esquire, advised the Messrs. Grahams not to go into the arrangement, on the ground the article was, in fact, no release; that C. Hammond, Esquire, advised the Messrs Grahams to close the arrangement, on the ground the article would, in effect, operate as a release. Deponent further testifies, that he has no interest, whatever, in the event of the suit in which this deposi-

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tion is given, between the bank of the United States and William S. Hatch; and that previously to the arrangement with Messrs. Grahams being entered into, deponent understood the said William S. Hatch to have agreed to pay the bank one half the demand now in suit for a release to himself; but being advised that the article aforesaid could be made use of to defeat the bank claim altogether, the said Hatch decided to abandon negotiation and abide a decision at law; and further saith not.

HENRY AVERY.

THE STATE OF OHIO, CITY OF CINCINNATI, ss.

I, Isaac G. Burnet, mayor of the city of Cincinnati, do hereby certify, that Henry Avery, the foregoing deponent, personally came before me, and made oath to, and subscribed the foregoing deposition, this day, by consent, without notice, all formality being waived.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said city, this twelfth day of December, eighteen hundred and twenty-seven.

[L. S.] ISAAC G. BURNET, *Mayor.*

No. 6.

BANK OF THE UNITED STATES, *vs.* WILLIAM S. HATCH. } *Circuit Court of the United States, seventh circuit, and district of Ohio.*

The plaintiffs in this cause, and their attorneys, will take notice, that I shall attend on Monday, the 7th day of July instant, at the office of Messrs. Hammond and Garrard, on Main street, in Cincinnati, and shall then and there proceed to take the deposition of Griffin Yeatman and others, between the hours of eight o'clock in the forenoon, and seven o'clock in the afternoon of said day, to be read as evidence in the above entitled cause.

CINCINNATI, *July the 3d,* 1829.

W. S. HATCH,
By Hammond and Garrard, his attorneys.

We acknowledge service of the above notice, July 3d, 1829.

CASWELL and STARR,
Attorneys for plaintiffs.

THE STATE OF OHIO, CITY OF CINCINNATI, ss.

To John C. Avery, Esq., Marshal of our said city, greeting:

We command you to take Griffin Yeatman, if he may be found in your bailiwick, and him safely keep, so that you may have his body before the mayor and aldermen of our city court, to be holden at Cincinnati, in and for the city aforesaid, on the first Monday of September next ensuing, to satisfy unto Elijah Pearson, Thomas Loyd, and Pierson Sorrill, late partners under the name of Elijah Pearson & Co., seven hundred and ninety-three dollars and sixty-two cents, as well for their damages sustained by reason of the non-performance of certain promises and undertakings lately made, &c., as for their costs and charges by them about their suit in this behalf expended, adjudged to the said Elijah Pearson and company, with their assent, by the mayor and aldermen of our city court at Cincinnati, in the term of March, anno Domini, 1821, whereof the said Griffin Yeatman is

convicted, as appears to us of record; and also have you the costs on executions issued in the same cause, against the said Griffin Yeatman, taxed, &c., and have you then there this writ.

Witness the honorable Isaac G. Burnet, Esq., mayor of our said court, at Cincinnati, this 31st day of August, anno Domini. 1821.

[L. S.] WILLIAM RUFFIN, *Clerk C. C.*

THE STATE OF OHIO, HAMILTON COUNTY, ss.

I, Daniel Gano, clerk of the court of common pleas in and for said county, do hereby certify the within to be a true copy of the original execution on file in this office, against Griffin Yeatman, in favor of Elijah Pearson, Thomas Loyd, and Pierson Sorrill, late partners, &c., and also the return thereon.

In testimony whereof, I have hereunto set my hand and affixed the seal of our said court, at Cincinnati, this 6th day of July, 1829.

DANIEL GANO, *Clerk.*

EXECUTION, No. 76.

Elijah Pearson, Thomas Loyd, and Pierson Sorrill, late partners under the name of Elijah Pearson and company, vs. Griffin Yeatman.

Ca. sa.

Damages, - - - - -	$783 00
Costs - - - - - -	9 78
This writ - - - - -	35
	$793 97

Add interest from 8th March, 1821, to September term, 1821, see back.

ESTE and STORER, *Attys.*

Committed September 1st, 1821.

JOHN C. AVERY, *Marshal.*

BANK OF THE UNITED STATES, *vs.* WILLIAM S. HATCH. } *Circuit of the United States for the district of Ohio.*

Be it remembered, that on the seventh day of July, 1829, personally came before me, Enos Woodruff, associate judge of the court of common pleas of Hamilton county, at the office of Charles Hammond, Esq., in Cincinnati, Griffin Yeatman, who being first carefully examined, cautioned, and sworn to testify the whole truth, (which, by the consent of the counsel of the parties, is to be read in evidence in the above entitled cause,) does depose and say, that he was in custody on the process, a copy of which is hereto annexed, and remained in custody about twelve months, having given security for the prison bounds; that he went out of the bounds on the assurance of either G. W. Jones or William M. Worthington, attorney for the bank, that an arrangement was made with Pearson, that he could go without endangering his securities; that he went out of the bounds for the purpose of going to Columbus to give testimony on behalf of the bank; and that he did go to Columbus in company with Mr. Jones, the agent, for that purpose, and since that time, he has heard nothing about the debt. Question by plaintiff's counsel. Was not the conversation above alluded to with Mr. Worthington, and not with Mr. Jones. Answer. My impression is, that it was with Mr. Worthington.

GRIFFIN YEATMAN.

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I hereby certify, that the foregoing deposition of Griffin Yeatman, signed by himself, was reduced to writing by me, in his presence, and in the presence of the counsel of both parties to the suit, at the time and place specified in the annexed notice. I further certify, that I am not of kin to, or of counsel for, either of the parties; neither am I interested in the event of the suit.

In testimony whereof, I have hereunto set my hand and affixed my private seal, this seventh day of July, 1829.

ENOS WOODRUFF, [L. S.]
Associate Judge of Hamilton county.

No. 7.

DISTRICT OF COLUMBIA, COUNTY OF WASHINGTON, sct.

Be it remembered, that on this fourteenth day of December, in the year of our Lord one thousand eight hundred and twenty-nine, before me, the subscriber, one of the justices of the peace for the county of Washington aforesaid, personally appears William M. Worthington, Esq., attorney at law, of the city of Washington and District of Columbia, formerly of Cincinnati, in the State of Ohio, who, on his solemn oath, taken in due form of law, deposeth and saith, that he recollects when, in the year eighteen hundred and twenty-two or three, about to go to Columbus in said State of Ohio, for the purpose of trying the cases of the Bank of the United States, it was thought very desirable to have the personal attendance of Mr. Griffin Yeatman, who had been a notary public, and by whom the notes held by the bank had been protested: that shortly before the period of the court's session, some process, he thinks a ca. sa., was served upon Mr. Yeatman, for the purpose, as this deponent understood, of preventing his departure. What the terms were under which Mr. Yeatman was released, this deponent does not recollect; nor does he recollect any correspondence upon the subject with any person; nor has he any such correspondence in his possession; his letters, if not destroyed, are with his brother, in Cincinnati. This deponent further states, that said Griffin Yeatman accompanied Mr. Jones and this deponent to Columbus.

WM. M. WORTHINGTON.

Sworn to before D. A. HALL, *J. P.*

DISTRICT OF COLUMBIA, WASHINGTON COUNTY, to wit:

I, William Brent, clerk of the circuit court of the District of Columbia for the county of Washington, hereby certify, that D. A. Hall, Esq., before whom the within deposition appears to have been made, and who has thereto subscribed his name, was, at the time thereof, and still is, a justice of the peace in and for the county and district aforesaid, duly commissioned and sworn, and to his acts as such, full faith and credit are, and ought to be given, as well in courts of justice as thereout.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said circuit court, at the city of Washington, this 14th day of December, 1829.

[L. S.] W. BRENT, *Clerk.*

DISTRICT OF COLUMBIA, to wit:

I, William Cranch, chief judge of the circuit court of the District of Columbia, hereby certify, that the aforegoing attestation of William Brent, clerk of the said court for the county of Washington, is in due form.

Given under my hand this 14th day of December, 1829.

W. CRANCH.

No. 8.

WILLIAM S. HATCH, *ads.* THE UNITED STATES. } *Circuit court of the U. States, Ohio district.*

Richard Ayres, being duly sworn, and cautioned to tell the whole truth in the above case, deposeth and saith, that he was sheriff of Hamilton county from November, 1818, to November, 1822, and while he was sheriff, he took Griffin Yeatman into his custody, by virtue of a ca. sa., to satisfy an execution in favor of Elijah Pearson; and that the said Yeatman gave bonds for the prison bounds; and that he discharged said Yeatman out of custody, and delivered up to him his bounds bond. Deponent is impressed with a belief, that his authority for said discharge was a written direction from said Elijah Pearson, his agent or attorney; and that he has made diligent search for said writing, but has not been able to find it, and thinks it lost or destroyed. Deponent thinks he discharged said Yeatman sometime in the year 1822.

R. AYRES.

George W. Jones, being duly affirmed, deposeth and says, that a short time before the September term of the United States' circuit court, district of Ohio, in the year 1822, it was suggested to him, as agent for the Bank of the United States, at the agency in Cincinnati, that Griffin Yeatman, Esq., notary public, would be required as a witness in numerous causes wherein the Bank of the United States was plaintiff; and that said Griffin was in the prison bounds of Hamilton county, at the suit of Elijah Pearson, but that in consequence of said Pearson having sundry suits pending against him as a debtor to said Bank United States in said United States' circuit court, he refused to release said Yeatman from his duress to appear as a witness for the bank, unless his claim should be paid, as deponent was informed, or that the bank should agree to continue the causes against him in said court. Deponent was informed by the counsel of the bank, Wm. M. Worthington, Esq., that if such an assurance should be given, that Mr. Yeatman should be permitted to go to Columbus, (but deponent did not understand, nor does he believe, that said Yeatman was to be discharged from his liability to said Pearson, should such an understanding take place) Deponent, as the authorized agent for the bank, on the application of the counsel aforesaid, who stated that he had written to Mr. Pearson on the subject, and had received from him a reply, refusing, without a condition that his own liabilities should not be carried to judgment at that term, to consent to the enlargement of Mr. Yeatman, whose presence was desired only for the time that would be required to go, to remain during the term of said court, and to return immediately thereafter, agreed not to press the suits to judgment against said Pearson, having been assured by said counsel, to the best of deponent's recollection and belief, that no opposition would be made by said Pearson at the following term of said court, to the trial of the causes against him. Deponent further states, that to the best of his knowledge and belief, no written agreement was entered into by deponent, nor does deponent know that any written obligation or article was made by the counsel aforesaid on the part of the bank. Deponent visited Columbus in company with said Yeatman, and attended the court at said September term, 1822, and to the best of deponent's recollection, having inquired of Mr. Yeatman by what

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means he was permitted to leave his prison bounds, he was not able to state distinctly, but supposed it was by an arrangement between the counsel and agent of the bank, and Mr. Pearson; and further saith not.

GEO. W. JONES.

THE STATE OF OHIO, CITY OF CINCINNATI, SS.

I, Isaac G. Burnet, mayor of the city of Cincinnati aforesaid, not being attorney or of counsel for either of the parties in the foregoing suit, nor in any way interested in the event of the same, do hereby certify, that the foregoing depositions of Richard Ayres and George W. Jones were taken before me, at the mayor's office in said city, on the nineteenth day of December, eighteen hundred and twenty-nine, at the instance of the defendant, by consent of the parties, without any notification; counsel on both sides being present and consenting thereto; that the deposition of Richard Ayres was then and there reduced to writing by Robert S. Finley, by the consent of the counsel on both sides; that the deposition of George W. Jones was then and there reduced to writing by himself; and that they were then and there subscribed by the said deponents, respectively, in my presence; and that the said deponents were by me carefully examined and cautioned, and the said Richard Ayres sworn, and the said George W. Jones affirmed, to testify the whole truth relating to the matters in controversy in said suit; and that the reason of taking said depositions is, that the residence of said deponents, at said city, is more than one hundred miles from Columbus, the place of trial.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said city, this nineteenth day of December, eighteen hundred and twenty-nine.

[L. S.] ISAAC G. BURNET, *Mayor.*

No. 9.

Just before the September term of the circuit court, in the year 1822, while I resided at Milford, Clermont county, I received a letter from Wm. M. Worthington, Esq., attorney for the Bank of the United States, at Cincinnati, stating that he had just then learned that Griffin Yeatman was confined in the prison limits of Hamilton county at my instance; that the said Yeatman was a most material witness for the bank in various cases then pending in the circuit court at Columbus; that it was then too late for him, after he had ascertained that Yeatman was so confined, to give notice to the parties to take his depositions in the several suits, to be read in the then approaching term of the court, and proposing to me that if I would release Yeatman, so that he could proceed to Columbus as a witness, that the bank would not avail itself of Yeatman's testimony in any suit in behalf of the bank then pending against me, but that all the cases of the bank against me should be continued over the then approaching term of the said court. One of the said suits of the bank against me was on a bill of exchange drawn by me on Thomas Graham, by him accepted, and endorsed by Wm. S. Hatch, for about six thousand and six hundred dollars; on which suit has been instituted, and is now pending against the said Hatch. I immediately wrote an answer to the said letter of Mr. Worthington, and sent it to him, open or unsealed, by John M. Ferry, agreeing to release said Yeatman, and proposing that the bank should, in addition to extending the time to me as had been voluntarily proposed by Mr. Worthington, as attorney as aforesaid, never issue any process against me by which I should be imprisoned, unless

I should conceal my property or convey it away, with intent to evade the payment of my debts. I also, at the same time, gave the said Ferry a written order for the release of said Yeatman, to be delivered to the attorney or agent of said bank. The said discharge of Yeatman took place, as I believe, in consequence of my said written order; I assented to it at the time, and have ever since held myself bound by it, and have never made any attempt to charge the sheriff or the security of the bounds with the debt, nor has any attempt been since made at my instance, or to my knowledge, to collect the debt of Yeatman. I supposed the terms proposed by me to the bank, had been acceded to by the bank; at all events, I should have promptly acceded to the proposal of the bank for further time, even if they had not agreed to my proposal respecting imprisonment, as I then still believed I should be able to settle all the claims against me, and have considerable property left, rather than not to have had the benefit of the proposed extension of time under the views then entertained by me of my circumstances. The letter from Mr. Worthington is lost or mislaid, as I have been unable to find it after diligent search among my papers; and I believe I kept no copy of my answer to it above referred to. I find I was mistaken in my former deposition, in regard to the year in which the letter from Worthington, above referred to, was received.

E. PEARSON.

Sworn to and subscribed in open court, December 31, 1829.

WILLIAM MINER, *Clerk.*

The bond in error, filed in this cause, is in the words and of the tenor following, to wit: "Know all men by these presents, that we, Daniel J. Caswell and Charles Fox, of the city of Cincinnati and State of Ohio, are held and firmly bound unto William S. Hatch, of the State aforesaid, in the sum of five hundred dollars, lawful money of the United States; for the payment of which, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated at Columbus, this 21st day of July, A. D. 1830.

Whereas at the July term of the circuit court of the United States for the seventh circuit and district of Ohio, in a certain suit of scire facias pending in said court, between the President, Directors, and Company of the Bank of the United States, plaintiffs, and the said William S. Hatch, defendant, a judgment was therein entered in favor of the said defendant, on which said judgment the said plaintiffs have obtained a writ of error and citation, all of which will more fully and at large appear, reference being had to the record and proceedings in the court aforesaid, in said cause:

Now the condition of the above obligation is such, that if the aforesaid writ of error shall be prosecuted to effect, and the said judgment of the circuit court aforesaid be reversed, then and in that case the said obligation shall be wholly void and of none effect, otherwise to be and remain in full force and virtue in law.

Witness present, &c.

CHARLES FOX, [L. S.]
DANL. J. CASWELL, [L. S.]

THE UNITED STATES OF AMERICA, DISTRICT OF OHIO, SCT.

I, William Miner, clerk of the seventh circuit court of the United States in and for the district of Ohio, do hereby certify the aforegoing to be a true transcript of the record, judgment, and proceedings, in a suit determined in

810.

said court, wherein the President, Directors, and Company of the Bank of the United States are plaintiffs, and William S. Hatch is defendant, as the same remains among the files of my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at Columbus, this 3d day of August, in the year of our Lord one thousand eight hundred and thirty, and in the 55th year of the American independence.

Attest, WILLIAM MINER, *Clerk.*

The United States of America. Supreme Court of the United States, to greeting:

Whereas obtained the allowance of our writ of error to the circuit court of the United States for the seventh circuit and district of Ohio directed, to remove into the said Supreme Court, to be holden at the City of Washington, on the Monday in the month of next, the record of a certain plaint, process, proceedings, and judgment in an action of wherein you the said in that action lately recovered against the said and costs, as by the said record in the said circuit court and district aforesaid remaining appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said we are informed, and our said writ of error granted, issued and allowed as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be. You are, therefore, hereby commanded and cited to be and appear before the judges of the said Supreme Court, at the City of Washington, at the next term of said court, to be holden on the . Monday in the month of next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the honorable Chief Justice of the United States of America, this day of in the year of our Lord one thousand eight hundred and and in the year of the American independence.

Attest,

Clerk.

The United States of America, to the honorable the Judges of the circuit court of the United States for the seventh circuit and district of Ohio, greeting:

Whereas in the record and process, and also in the rendering judgment, in a certain action of which was in the said court, between plaintiff and defendant, manifest error hath intervened, as it is said, to the great damage of the said as by complaint we are informed, and we being willing that the error aforesaid (if any) be corrected, and full and speedy justice be done in this behalf to the said parties, command you that the record, process, and judgment aforesaid, with all things touching the same, under your seals, distinctly and plainly, without delay, you send and certify to the Judges of the Supreme Court of the United States, on the first day of the next term of said court, so that the judgment aforesaid being inspected, the court may further, for correcting the error aforesaid, do that which of right and according to law ought to be done.

Witness the honorable Chief Justice of the United States of America, this day of in the year of our Lord one thousand eight hundred and and in the year of the American independence.

Attest, WILLIAM MINER, *Clerk.*